

**VILLAGE OF MARIEMONT
REGULAR COUNCIL MEETING HELD IN COUNCIL CHAMBERS
AUGUST 14, 2017**

Mayor Policastro called the meeting to order at 7:00 p.m. with the Pledge of Allegiance to the flag. The following Council members answered present to roll call: Mr. Brown, Mr. Hlad, Mr. Marsland, Ms. Palazzolo, Ms. Schwartz and Mr. Wolter.

Solicitor McTigue said the question before Council is to vote on the enforceability of Section 95.07 of the Mariemont Code of Ordinances to restrict bicycle traffic from Dogwood Park along the Whiskey Creek Trail.

Mr. Paul Mulvany, 6507 Mariemont Avenue, said he has read a lot of literature on this subject, including Mr. Karnes's proposal. What struck him were the self-contradictions when he said it should have access for all but it does not include horses as Mr. Karnes mentioned. It would include bikers, hikers and runners. That brings to him a safety concern. Also by building a trail you are changing the topography. The storm work and drainage issues behind Mr. Luken's were problematic and had to be addressed. It was also said that the bicycles would not leave marks or damage to the trails. In order for the bikes not to do that the surface has to be altered. Also when it was said that Mariemont would not be liable he does not believe that is quite true. Nowhere in the US if there is negligence has someone not been held liable. If you put bikers and pedestrians/runners on the same trail someone is going to get hit at some point. This was an article in the Wall Street Journal regarding someone donating money for a parallel bike trail because of incidents where there were injuries.

Mr. Andrew Seeger, 6984 Crystal Springs, said he believes there are four issues. We have Wasson Way which is a trail, the trails in our parks and the issue with the creek that needs to be cleaned out. He somewhat agrees with the Mayor that something has to be done because only 75% (of the trail) is complete with 25% still full of debris. The trails should be left open for everyone including bikers. We built them according to Council and the Mayor's approval. Everyone knew what was involved and we followed the rules and regulations. CORA are experts in what they do. All the hard work and effort that was spent will be all for naught. Pretty soon succession is going to take over and everything will go back to the way it was. In a few years it will all be gone and we will have to start from scratch.

Mr. Grant Karnes, 6909 Mt. Vernon Avenue, said he is a 16-year Mariemont resident, member of the South 80 Committee, a primary designer and builder of the Whiskey Creek trail, CORA board member and CORA trail steward. He has gone on record to provide everyone with a full and factual account of the history of the Whiskey Creek Trail and he hopes it is useful to Council's decision. There have been a lot of truths and partial truths propagated by Mayor Policastro and Dr. Tankersley and there has been quite a bit of revisionist history, especially in the blaming of CORA for building the trails, but fortunately the residents of Mariemont and the surrounding community are beginning to understand the whole story. Much of it is in the written record for the Village. Mariemont built the trail and it built the trail to allow and accommodate bikes. That is something that makes our current ordinance, 95.07, relevant and clear – that bikes are allowed on this trail because the trail was designed for bikes. The many arguments against biking on the trail, safety, insurance and liability, user conflict, maintenance, erosion, parking, wildlife – haven't stood up to scrutiny namely because they aren't based in fact or education, they are based on opinions. We should all remember that the desire to ban bikes on the trail did not begin because of trial users complaining about bikes or parking or safety or anything for that matter. In fact, he is not aware of a single complaint ever registered about the trail before this began. Rather, the push to ban bikes began with Mayor Policastro, first trying to get them banned because the area is a wildlife preserve and now because of historical sites. I wonder if the Mayor was giving consideration to those things when he directed a track hoe into Whiskey Creek. Given all of that, if Mariemont determines that Dogwood Park shall be a "Wildlife Sanctuary", then consideration should be given to how to best maintain that, if it is even possible given its close proximity to ballfields, roads and houses. Protecting it under this classification would most likely include banning all foot traffic, dogs, and certainly preventing kids from playing in the creek or looking for fossils. Finally, if Mariemont determines that here are historical sites or archaeological places of interest that should be protected, then I wholeheartedly agree that the trail should be shut down immediately to all users, that a thorough study using an independent expert should be conducted about how to best protect and preserve the sites, and that the trail should be rerouted around those areas with the intent to restore it for use by everyone. He trusts Council will do its job and consider all of the data and information surrounding this issue for the residents of Mariemont, those who you represent, we depend on it.

Ms. Mary Lou Holt, 6795 North Clippinger Drive, said she was the artist that created the titled "Mariemont Village 17th Century of the Ft. Ancient Indians". The painting has been purchased by the Eastern Shawnee Tribe in Oklahoma. It is now in the museum cultural center. She collaborated with Dr. Tankersley to make it as historically accurate as possible. She offered to the Village free of charge the right to use the copyright to use the image on signage around the earthworks for the purpose of educating and possibly deter problems with inappropriate use at the sites. Within the painting are several vignettes. The Village could have a sign with one of the vignettes explaining the story. She is hopeful that it would alleviate some of the problems.

Mr. Geoff Kaye, 6998 Rowan Hill Drive, said he has been a resident of Mariemont for almost 58 years. He grew up riding bikes and playing in the Whiskey Creek area. His mom said he was probably running over relatives from her side of the family. Now it has become a big deal. He personally does not care one way or another. He is more concerned with the possibility of a forest fire.

Mr. Matt Weinland, 3812 Indianview, said as an avid mountain biker he likes having access to the trail. As a defender of Mariemont heritage he certainly wants to protect the historical areas. It is important for Council to consider that the code section 95.07 specifically states bikes are not allowed unless specifically designed for that purpose. As Mr. Karnes stated this trail was created for that purpose. If it is endangering historic site there needs to be a moratorium so the Village can find out the best way to continue to have a trail.

Mr. Michael Erikson, 4307 Joan Place, said he and his neighbors love to mountain bike. He takes his children to the trail to enjoy the area as well. Dr. Tankersley gave him a new appreciation for the delicateness of the area. We do not have to have conflict while trying to enjoy something and preserving something. The South 80 Trails is an example. He has rode

the CORA trails and has never had a problem. He does not see that as an argument. As conserving the Madisonville site as a priority he totally agrees with that. As a mountain biker it is hard to go off trail to cause issues of erosion. Most off the trail traffic are hikers. The issue is how do we design a trail and maintain a trail in a way that protects the environment. The areas that encroach on the burial sites should be closed but there are areas that can be re-routed.

Mr. Rob Bartlett, 3611 Mound Way, said he supports Mr. Wolter's proposal which was read at the last Council meeting, which was to 1. Shut down all of the trails through Dogwood Park and the Madisonville Site to all users. 2. Clearly identify and mark the location of the sensitive sites. 3. Go through the process per Mariemont code for designating those as historical sites. 4. Install the appropriate signage for those sites. 5. Figure out how best to move the path so that it is a safe distance from the kiln, the mill and the burial mounds. When the trail is moved, then determine if it can be made for multi-use or not. There has been a lot of opinion and emotion involved in this discussion. As Council members, it is important that your decisions be based on facts and logic. He addressed some of the misinformation that is out there. First, Dr. Tankersley told the press that all of the trails were built by CORA. That is not true. For those Council members that were present at the January 11, 2016 meeting they know how the process happened. This meets code section 95.07 because it was built to the standards and was communicated that it was built to those standards. Dr. Tankersley has also said multiple times that based on his conversations with the State Historic Preservation Office the Village could lose its historic designations. However, the Cincinnati Enquirer contacted Emmy Beach, spokeswoman for the Ohio Historic Connection, which oversees the State Historic Preservation Office and Ms. Beach said it is unlikely that Mariemont would lose its designations and that the Village should contact her office and they would be happy to help straighten things out. He has copies of the emails that Dr. Tankersley says are from the State Historic Preservation Office. They are cut and pasted and redacted so much that some of the first half is almost unintelligible. He finds it odd that Dr. Tankersley has been unwilling so far to share the full unedited email conversations, including his own comments. That is concerning to him. Personally, he thinks someone from Council should contact Ms. Beach and take her up on her offer. She seems like a reasonable person and is willing to work to help the Village. Mayor Policastro has said multiple times that the Army Corps of Engineers told him bikes are not allowed along Whiskey Creek. He has been asked multiple times by Council to provide written documentation to support that and he has not. So far the only letter from the Army Corps of Engineers that he has seen that talks about bikes says bikes are allowed as long as the trail meets Army Corps criteria. However, the letter also states that the dredging that was done along the creek violated two different federal laws, which is why the Army Corps of Engineers got involved in the first place and why the erosion issues along Whiskey Creek got so bad that many of the trails had to be closed down. To try to condemn bicycles is a shameful attempt to shift blame versus taking responsibility for one's own actions. The Mayor's January 2015 Bulletin says that having both the archaeological sites and the multipurpose trails in the South 80 helped to dissuade ODOT from putting the Eastern Corridor in that valley area. So clearly archaeological sites and multi-purpose trails can co-exist if it is planned out properly. Personally, he believes the paths on top of the burial mounds should be shut down altogether. He fails to understand how some people can say that riding a bike on top of burial mounds is disrespectful but walking on top of a burial mound and letting your dog run around and do its business on a burial mound is not disrespectful. That makes no sense to him. As for the trail along Whiskey Creek, he thinks it should be moved to preserve the Ferris kiln and the Ferris mill, as well as protect the base of the burial mounds. The current path goes right through the middle of the kiln and the mill. What is the logic of saying that allowing people to walk right on top of these sites is going to protect them? It's hypocritical for someone to claim they want to protect those locations, but then still let people walk directly on top of them. If you really care about those sites, shut down the trail, do the proper studies, designate them as historical, create an appropriate buffer and put signage around them, and then move the trail a safe distance away, and re-assess at that point in time if the new trail can be multi-purpose or not.

Mr. Bob Blum, 6601 Mariemont Avenue, said he lives close to Mr. Luken and has been a Village resident for 40 years. His office is in the front of his house so he can observe a lot that goes on down the road. He has been able to see what has happened in the last two years referring to the traffic and type of vehicles going down the road. The vehicles are carrying bikes with more than one person going towards the pool area. His concern is from a safety standpoint. Four years ago when the South 80 was opened up and made available he was interested in going down there. Fabulous work was done in the area. The terrain is rough. He had an incident with his 3 year old granddaughter. He heard the bike coming but his granddaughter did not. They were able to get out of the way but if they were in a passage way the biker would not have been able to see them and would not have been able to stop. The difference is the path in the South 80 was 4' which allowed them to get out of the way. Whiskey Creek is 2' – it is a walking path not a bike path. When the group of 40 people at Whiskey Creek encountered a biker, the biker was very belligerent towards Dr. Tankersley's conversation. With the size of the path someone was going to have to move off the path. The Village has provided a bike path that is wide enough down at the South 80 to accommodate multi-use.

Mr. Gabe Harnnett, 3854 Settle Road, said he has been biking the South 80 and Whiskey Creek Trails for years. He enjoys them and he would hate to see this taken away from the future youth of Mariemont. He is sure that everyone played outdoors when they were young. To take this portion of Mariemont and not let people hike, walk or bike on it would be a shame. In all his experience he has never had any problem with anyone – all communication with anyone has been friendly. He agrees if there is a site that needs to be preserved then that should be done, but it does not mean that the whole trail should be shut off to walkers and bikers. It should be kept open for future generations to enjoy.

Mr. Mike Manzler, 4034 Lytle Woods, said as a lawyer he is more concerned with the process than the result. Ultimately, the people of the Village should decide what they want. If Council does not do what the majority of the people want then democracy will take care of it. He has lived in the Village for 25 years and he has seen this process over and over again from Mayor Policastro. When a problem comes up he does not seek consensus, he does not do research, he does not ask people for their opinions. He just reacts. He commented that the Mayor bulldozed an area of gardens on his street that he and his wife had taken care of for years without one day of warning. They spent hundreds of dollars and thousands of hours on the project. The reason was for safety. A perfectly healthy 25' tree was cut down because of safety. He sees the same thing in play here. People are talking about concerns for safety – but nothing ever has happened – has it? He has used those trails with his children for 25 years and there has never been any problem. He urged Council to look at the big picture and find a common sense solution that takes everyone's needs and interest into effect. That is what should be important in a Village like Mariemont...not one person saying this is the way it is going to be.

Mr. Paul Mulvany said as a point of order he would like to see the meeting stay on order of the agenda item #2a. The last speaker gave a diatribe about how he does not like the Mayor. He asked if we cannot have that type of diatribe come in the middle of discussion.

Mr. Joe Stoner, 6924 Miami Bluff Drive, said he has heard the pros and cons of this for some time. It is important to remember that this is not just a piece of land – it is a special unique piece of land. There are plenty of places to bike in and around Mariemont. Those that put the original trails in had good intentions but anytime you do something there are unforeseen consequences.

Ms. Marcy Lewis, 6824 Miami Bluff Drive, said she sees people who are worried about Mariemont as a whole and the bikers who want to ride that particular area. As a member of MPF and a resident she believes there are some distinctions that need to be made. She agreed with Mr. Stoner that this particular piece of land is different. The South 80 is more conducive to bike riding. Personally she has been in the area and bikers have come upon her unaware and it is scary. She also would prefer no dogs off leash but she understands the need to have everyone's needs to be accounted for. There is a possibility of continuing the Wasson Way and connecting with the Miami Trail which she thinks would be lovely. Those are wide visible areas that would work well. As a resident she does not want it advertised to Ohio as a whole for a destination to be used. She does not feel Whiskey Creek is a safe area to bike as there is not enough time to react.

Mr. Larry Wessel, 7011 Wooster Pike, said as long as the bike trail is not going over historic sites he believes it should be allowed. If it is going over historic sites it should be shut down to everyone.

Mr. Weinland asked if there were any statistics on documented incidents in Whiskey Creek. Chief Hines said he does not have any statistics. Mayor Policastro said when he took the Solicitor for a tour there was a man with his son. They had to stop quickly and the boy fell on his head and he was hurt pretty bad.

Mr. Seeger asked if the Police Department enforced the age 16 bicycle helmet law. He also asked how long till the Wasson Way Project is complete. It would offer another options for bikers. Mayor Policastro said he had coffee with the President of the Wasson Way Project and was told it will be awhile. He is hoping as the project moves along he along with State Representative Brinkman can meet with the railroad people and try to soften them up.

Mr. Mark Wilson, 3846 Beech, said he believes the burial grounds need to be preserved. The access for everyone needs to be shut off until it can be evaluated. The process then can start over. He gave the comparison of those who feel threatened when walking when a bike approaches to how a biker feels when approached by a car. It is important when relating to safety on trails. You cannot keep people from being irresponsible. He personally has more issues with dogs off leash.

Mr. Chris White, 6589 Wooster Pike, said he supports the coexistence of bikers and hikers. We can figure out the best way to handle this so everyone can enjoy this asset. He enjoys riding with his children and experiencing new things. There is always a chance of injury no matter what you may be doing.

Dr. Ken Tankersley, Tenured Professor at the University of Cincinnati, Departments of Anthropology and Geology said he was asked more than a decade ago by the Mayor to begin investigating the historic and archaeological properties of Mariemont. It is important to emphasize that the Whiskey Creek Run Valley is geologically unique. It is sitting on bedrock over one half billion years old. The area is unstable and is subject to landslides and flash flooding. It is a fragile environment. CORA's website points out three trails in the Whiskey Creek Run Valley with a fourth trail planned according to their 2017 annual report. The trails that have been created recently cut through the Madisonville Cemetery and two associated burial mounds, the Ferris Family mill site and distillery site. These sites at the time of trail construction were on the National Register of Historic Places. To his knowledge, no one asked him about them. There was no attempt to identify historic properties, which have now been seriously impacted. It is a civil rights issue.

Mr. Doug McClintock, President of CORA, commended the community and Council for debating the issue. We approached the Village with funds to help maintain the trails. We did not build the trails – they were built by South 80 Trails members. We understand implicitly that there are sensitive sites within this area. Had we built the trails we would have done appropriate assessments. They would have re-routed the trails had they been the trail constructor. They maintain that they would continue to offer assistance to the Village to maintain multiuse trails. They will not in any way maintain trails that trample on Native American burial or sensitive site. He is so upset that his organization was drug through the mud for no reason. We approached the Village with our hands out offering to help. Their offer still stands should the Village decide to move forward. The information referenced in their annual report was given to them by Mr. Karnes as a new Board Member of CORA. You can find the annual report online – he cannot remove history. Mayor Policastro asked about the Facebook page and who gave permission to put that on. Mr. McClintock said they created a Facebook page which they immediately took down once they got a cease and desist from the Village Solicitor. It happened because it is the internet.

Mr. Clem Luken, 6610 Mariemont Avenue, said he is opposed to multiuse trails. The reasons have been laid out in this room quite adequately. He sat through several meetings and took a tour with Dr. Tankersley. He has seen the “blame game” and that is not what a Village government does. What is important is the mass of documentation that has now been generated such as maps etc. What Council should be asking is what is important for that space. This is not a question of winning or losing. Council needs to consider the interests of people of the Village. The internet causes damage. This has been sufficiently vetted.

Mr. Hlad thanked everyone for being a part of the democratic process. Taking a quick tally 11 people spoke in favor of a multiuse trail and 6 people were not in favor of a multiuse trail. He has heard reasonable and smart solution for the short term which is to close the trails down for a short time to the public so Council can do a thorough investigation of the damage that has been done to our Native American historical sites. We need to look at the current trail and ask if it is in the appropriate path for anyone to be on. Per our code do we designate it as an approved biking trail? It is unfortunate that when the trails were commissioned Council never voted on establishing it as a designated bike trail. There was no legislation. Per our current ordinance he does not believe that biking would be authorized on the trail.

Mr. Wolter said it is imperative in the interest of protecting the area and coming to a fair decision for everyone that this matter be referred to the Committee of the Whole. One suggestion he had made was to mark the sensitive areas. In the Committee of the Whole we can delegate different issues to different people, we can bring this to a fair conclusion and protect the Native American sites. It needs a fair process so everyone feels they have been treated fairly. He believes a

mistake was made and we are trying to fix the mistake by studying all the issues. Mr. Wolter moved, seconded by Ms. Palazzolo to refer the matter to the Committee of the Whole.

Discussion ensued regarding amending the motion to affirm Code Section 95.07 and close the trail temporarily to all users. Solicitor McTigue said when you close the trail to all users it is changing the whole complexion of the question before the Council which pertains to bicycles. Ms. Palazzolo said we are all here because of the damage to the historical sites. By enforcing the code to not allow bicycles does not get us there because it does not address foot and dog traffic etc. In her opinion it is a natural extension to amend the motion to extend it to all forms of traffic on the trails temporarily. Solicitor McTigue said under Rule 26 it can be amended.

Mr. Hlad stressed that Council take a slow methodical look at this situation to be sure that we get it right and that we are able to document to the State of Ohio what steps we are taking in the restoration process. This is not trying to stop remediation but to make Council accountable to the residents of the Village just as much as the Mayor – who works really hard.

Ms. Schwartz asked Mr. Hlad if he wanted to take three steps back because we are already in the process of protecting and remediating the area. Mr. Hlad said no – he wants to take three steps in the right direction so we can move forward. Ms. Schwartz asked if we shut it down does that include the Boathouse since it is located within Dogwood Park. Mayor Policastro said if this is amended the Boathouse should be excluded. Ms. Schwartz said we should leave the area by the Boathouse that is not sensitive open. Mr. Wolter said while some of the areas are temporarily fenced off there is no signage and said there should be some temporary signage in place while ARB decides on the actual design of the permanent sign.

Ms. Schwartz said we have heard from so many people and she does not believe that we are going to hear anything more than what we have already heard. She stated that all of Council has been available for residents to reach out to and she felt the community has been included. Mr. Hlad said it is a heated issue and for the sake of living next to our neighbor we need to have a slow process to make sure Council makes the right decision determining what kind of trail it is. Further discussion ensued regarding temporarily closing the trail.

Solicitor McTigue said in his opinion as it stands right now Section 95.07 prohibits bicycle traffic in this particular area. Council can table the matter, amend the question before Council or refer it to a Committee of Council. If it is referred to a Committee of Council the way he sees it bicycles will be prohibited. Mayor Policastro verified if Section 95.07 is good law. Solicitor McTigue said yes.

Ms. Palazzolo said she did some research and was asked by some citizens to do some follow-up. She read excerpts from the following E-mail:

Clarification on the Mariemont Trail/Parks Questions

Maggie Palazzolo <magpalOO@gmail.com>

To: beberhard@ohiohistory.org

Bee: Maggie Palazzolo <magpalOO@gmail.com>

Sun, Jul 30, 2017 at 9:22 PM

Hello Mr. Eberhard,

My name is Maggie Palazzolo and I am a member of the village council in Mariemont. I along with my colleagues have have read over a portion of your discussion with Dr. Tankersley regarding the trail in Dogwood park (including the Spicebush Mound and Madisonville Site areas.) I have included that portion of your conversation at the bottom of this email. It was provided to us by Dr. Tankersley. It seems we are missing something important here- maybe a portion of the conversation. Would you be willing to look this over and if it is not complete, provide me with the full conversation, so I can share with the council? If this is complete, would you confirm that for me? This is a very important issue to us and to Mariemont as a whole and we would like to have as much information as possible when we discuss it in our upcoming meeting. Thank you in advance.

Maggie Palazzolo

----- Forwarded message -----

From: Karen Sullivan <Karen@via-design-ltd.com>

To: <bbrown@mariemont.org>

Cc:

Bee:

Date: Sun, 9 Jul 2017 12:14:52 -0400

Subject: FW: SHPO Letters

Hello Bill,

Here is the information Dr. Tankersley shared from SHPO.

From: Tankersley, Kenneth (tankerkh) [mailto:tankerkh@ucmail.uc.edu]

Sent: Wednesday, July 05, 2017 5:27 PM

To: Karen@VIA-Design-Ltd.com

Subject: SHPO Letters

Hi Karen,

First, thank you so very much for the wonderful lunch.

Also, thanks for the reminder. Below are texts from the SHPO's, which I tried to send to Bill Brown. The bounced back "mail undelivered." It would be keen if you could get this text to Bill and anyone else who needs to know what is a stake.

Clarification on the Mariemont trail/Parks Question

Maggie Palazzolo <magpalOO@gmail.com>
To: Diana Welling<dwelling@ohiohistory.org>
Cc: Brent Eberhard<beberhard@ohiohistory.org>

Wed, Aug 2, 2017 at 3:34 PM

Diana,
Thank you so much to you and Mr. Eberhard for your reply. This is not exactly what I was expecting to hear, but it illuminates the situation. You have been very helpful.

Thank you also for the clarification. I was planning to check in with you about that today. Regards,
Maggie

On Aug 2, 2017, at 10:26 AM, Diana Welling <dwelling@ohiohistory.org> wrote:

Ms. Palazzolo,

To clarify, the second sentence of the fifth paragraph to this email (sent yesterday 8/1/2017) should have stated that the archaeological resources are *not* contributing to the NHL. That sentence should have read: "I have reviewed the NHL nomination to discover these resources are not contributing to the NHL and I am of the opinion affects to the archaeological sites would not affect the NHL listing status for the Village of Mariemont.

Thank you,

Diana Welling | Department Head for Resource Protection & Review, State Historic Preservation Office

Ohio History Connection! 800 E. 17th Ave. Columbus, OH 43211-2474

p. 614.298.2000 If. 614.298.2037 I dwelling@ohiohistory.org
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The Ohio History Connection's mission is to spark discovery of Ohio's stories. Embrace the present, share the past and transform the future.

From: Diana Welling
Sent: Tuesday, August 1, 2017 3:58 PM
To: 'magpalOO@gmail.com'
Cc: Brent Eberhard
Subject: Clarification on the Mariemont trail/Parks Question

Dear Ms. Palazzolo,

Thank you for reaching out to us. Your question was forwarded to me by Brent Eberhard. We at SHPO have discussed the situation in Mariemont and wanted to make a few clarifications. That being said, Brent and I prepared a response to your questions below. If you have any further questions or concerns, please do not hesitate to contact me directly.

Thank you,
Diana Welling

I would like to clarify that the subject head of "SHPO Letters found in Ken Tankersley's forwarded email suggests there has been an official communication provided by the State Historic Preservation Officer or a Deputy Officer. The email you received was one shared with the Mayor at Ken Tankersley's request and stated an opinion of how the village may consider preparing to tackle what was initially presented to me as a **very serious concern**.

Ken Tankersley stated to me by phone conversation that human remains had been exposed resulting from a motocross event held illegally on village property. I was told the event led to arrests with some participants stating their intent to continue to motocross in protest of a government declaring rights to determine use of public land. With the prospect of on-going damage to Native American remains and to other NRHP site deposits I suggested that Ken Tankersley quickly prepare archaeological site documentation and this be presented to the State Historic Preservation Officer or a deputy designee with a request for guidance. I also requested of Ken Tankersley that he immediately share photo documentation of the exposed human remains which to date has not been met.

My initial confusion as you noted in the original email was the result of having to assume that a motocross event could only occur on the floodplain and certainly not within earshot of village occupants. Once I placed Spice Bush Mound on the map I received confirmation from Ken Tankersley this was the location and I expressed surprise that a motocross could occur so near to the village and even up to the municipal swimming pool. Ken Tankersley stated that to be the case and the event caused heavy damages across the remaining intact areas of the Mariemont Embankment and Madisonville.

Being told the motocross organizers were intent to continue I suggested the archaeological assessment of damages report could also be useful for the city to determine costs of repair of damages to the archaeological sites. My suggestion was based on the prospect the event organizers would reconsider if they might be facing costs to repair city property. I was and I remain of the opinion that destruction of archaeological resources and especially to Native American human remains could result in a request that the NRHP boundaries of the archaeological sites be reduced to exclude areas of active destruction or that on-going destruction could result in a degree of destruction that a request be made to determine the site Destroyed resulting a potential delisting.

My initial concern that this could affect the NHL listing was based on a mistaken understanding that the archaeological resources of the Mariemont Embankment and the Madisonville Sites were contributing resources to the NHL. I have reviewed the NHL nomination to discover these resources “are not” contributing to the NHL and I am of the opinion affects to the archaeological sites would not affect the HL listing status for the Village of Mariemont.

The Ohio History Connection received an inquiry from the Cincinnati Enquirer prior to last week's initial publication requesting clarification of a statement Ken Tankersley made at a village council meeting that a governor appointed preservation official made a determination that damages could result in delisting. As a staff member I am not governor appointed and as my email notes to obtain SHPO guidance the Mayor or another would want to present a written request, and which I feel should be accompanied by a statement of concern and documentation of archaeological damages.

The Cincinnati Enquirer suggests a very different set of events than what were presented to me and for which I offered my thoughts on how the village might choose to prepare for what I was told was an active threat to village property and two NRHP listed sites and not least of all the continued harm of Native American Remains.

Diana Welling I Department Head for Resource Protection & Review, State Historic Preservation Office

Ohio History Connection! 800 E. 17th Ave. Columbus, OH 43211-2474 p. _____
614.298.2000 If. 614.298.2037 [dwelling@ohiohistory.org]

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Ms. Palazzolo said there is new information and a lot of political hyperbole that has gone on. She believes it is really important to slow this down and use the people at the State Historic Preservation Office who have offered us their services to help us determine what is going on and help us navigate these issues. We have been using a middle man and she does not know why.

Mr. Hlad moved, seconded by Ms. Palazzolo to amend the current motion and to temporarily close Whiskey Creek Trail, excluding the Boathouse area, to the public for the purpose of: (1) Assessing damage to sensitive areas and Native American sites (2) Repair any damage as needed (3) To further evaluate and determine exact layout of the trail (4) To determine authorized use of the trail and appropriate recreational activities allowed and (5) To approve signage (temporarily closed to the public. Permanent signage would require ARB approval). The matter will be referred to the Committee of the Whole. On roll call; five ayes, no nays. Ms. Schwartz abstained.

Mayor Policastro called for a five minute recess. The meeting reconvened at 9:05 p.m.

Mayor Policastro said Council needs to hear the appeal of Robert Bartlett pertaining to signs in Dogwood Park. Mr. Bartlett said he is appealing the decision by the ARB at their May 15, 2017 meeting concerning signs to be place in Dogwood Park saying “No Bicycles Allowed”. His argument is not with the design of the signs, but rather the process that was used. The May 15, 2017 ARB agenda stated that “The Village” requested these signs. How can that be because as evidenced from tonight’s Council agenda, The Village, and in particular Council, had not decided yet if bikes would be allowed on that trail or not. That is putting the cart before the horse. Furthermore, in the June 26, 2017 Council meeting the Village Solicitor, Ed

McTigue, was very clear that the decision of whether or not to allow bikes on the Whiskey Creek Trail resides with Council, not with the ARB, as the Mayor has claimed multiple times. His lawyer talked with Mr. McTigue earlier this week and Mr. McTigue also agreed that the Mayor does not have the power, per Mariemont Code, to unilaterally ban bicycles from the Whiskey Creek Trail, as he did in the July 24, 2017 Council meeting. The Mayor is overstepping his boundaries and violating Mariemont's own code book. The forefathers of this great country recognized that in order for democracy to work, there have to be checks and balances. You, as Council members, need to ensure that your decision rights are being protected. When your decision rights are being undermined or taken away from you, as they were with this request for the "No Bicycles Allowed" signs and with the executive order issued by the Mayor on July 24, 2017 you need to assert yourselves, both to uphold Mariemont laws and to ensure that the rights of the residents of this Village are being protected. We need to be following our Village's ordinances and processes, not trying to override them or circumvent them.

Mr. McTigue asked Mr. Bartlett if he would agree that the appeal to the decisions since Council has vacated that decision are now moot. Mr. Bartlett said yes as long as the signs are changed. His contention was the horse before the cart and the process in which it was done. He originally had a second appeal that it was Council's responsibility, not ARB's, to make a decision regarding CORA. That point has already been addressed and corrected. Solicitor McTigue said based on tonight's decision signs will have to go up to temporarily close the trails to all pedestrian and bicycle traffic. The ARB would approve the signage once the Committee of the Whole has made a decision.

Mr. Brown moved, seconded by Mr. Wolter to approve the minutes as written for the Council meeting July 24, 2017. On roll call; six ayes, no nays.

Mayor Policastro read the following communications:

From Police Chief Hines: July 2017 Monthly Report. Ms. Palazzolo said 1/5 of the drug offenses occurred and July and asked if there was any rationale behind that. Police Chief said he did not have a reason other than July is a busy month. There tends to be more activity in the warmer months. It has been a busy summer overall.

From Assistant Fire Chief: July 2017 Monthly Report

From Service Superintendent Scherpenberg: July 2017 Monthly Report

From Building Administrator Keyes: July 2017 Monthly Report

From Tax Administrator Busam: July 2017 Monthly Report

From Swim Pool Manager Schad: July 2017 Monthly Report

From Mariemont Parks Advisory Board: Meeting Minutes August 1, 2017

From Dr. Robert H. Van Stone: Memo Regarding Evaluation of Momentum During Collision Between a Child and a Bicyclist

From Spinnenweber Builders: Letter Dated July 24, 2017 re: Parking Lot Behind Theatre: Mayor Policastro referred the matter to the Economic Planning and Zoning Committee. Mayor Policastro said Mr. Spinnenweber is telling his merchants that their customers are in jeopardy because others use the parking lot. He will have the Committee look at slanted parking across the street from Dr. Larkin's office. Mr. Brown said he talked with Kathy Graeter who said Mr. Spinnenweber has allowed her employees to park in the parking lot.

From Assistant Fiscal Officer Wendler: Fiscal Officer's Report: July 2017 Monthly Report

Mr. Marsland moved, seconded by Mr. Hlad to pay the bills as approved by the Mayor, Fiscal Officer and Chairman of the Finance Committee. On roll call; six ayes, no nays.

Mr. Wolter moved, seconded by Mr. Brown to accept the recommendation of the Finance Committee which met on Wednesday August 2, 2017 at 10:30 a.m. to discuss the renewal of the Village's liability insurance policy. Present at the meeting were Mayor Dan Policastro, Administrative Assistant Joanne Van Pelt, Finance Committee Chairman Eric Marsland, Finance Committee Members Mary Ann Schwartz and Bill Brown. Also in attendance was the representative from Hylant, Karie Novesl. Discussion focused on whether our current liability cap of \$5,000,000.00 was adequate and whether to increase our cap to \$7,000,000.00. It was unanimously decided that the Finance Committee recommend to Council an increase in coverage to \$7,000,000.00 with an aggregate of \$9,000,000.00. The new premium would be \$30,763.00. The Committee further recommends that the legislation be passed on an emergency basis to avoid a lapse in coverage.

Mayor Policastro read the following miscellaneous announcements:

Village Offices will be Closed on Monday September 4, 2017 in Observation of Labor Day

Resolutions:

"A Resolution Declaring the Official Intent and Reasonable Expectation of the Village of Mariemont on Behalf of the State of Ohio (The Borrower) to Reimburse its Permanent Improvement Fund for the Settle Road Improvement CT06U/CT07U Project with the Proceeds of Tax Exempt Debt of the State of Ohio; and To Declare Emergency" had a second reading. Mr. Brown moved, seconded by Mr. Wolter to suspend the rules to allow for the third reading. On roll call; six ayes, no nays. The resolution had a third reading. Ms. Schwartz moved, seconded by Mr. Marsland to adopt the Resolution. On roll call; six ayes, no nays. Mr. Marsland moved, seconded by Mr. Hlad to invoke the emergency clause. On roll call; six ayes, no nays. Resolution No. R-19-17 was adopted.

“To Authorize the Solicitation of Bids for Administration Building Addition and To Declare Emergency” had a second reading. Mr. Brown moved, seconded by Ms. Schwartz to suspend the rules to allow for the third reading. On roll call; six ayes, no nays. Mr. Brown said the building packet will go out August 17, 2017. The Resolution had a third reading. Mr. Wolter moved, seconded by Mr. Marsland to adopt the Resolution. On roll call; six ayes, no nays. To invoke the emergency on roll call; six ayes, no nays.

Ordinances:

“To Renew Current Contract for the Following Kinds of Insurance; Real and Personal Property, Comprehensive General Liability, Business Automobile, and Other Coverages; To Pay Premiums; and To Declare Emergency” had a first reading. Mr. Wolter moved, seconded by Mr. Brown to suspend the rules to allow for the second and third readings. On roll call; six ayes, no nays. The Ordinance had a second and third reading. Mr. Hlad moved, seconded by Ms. Palazzolo to adopt the Ordinance. On roll call; six ayes, no nays. Ms. Schwartz moved, seconded by Mr. Wolter to invoke the emergency clause. On roll call; six ayes, no nays. Ordinance No. O-15-17 was adopted.

“To Amend Section 95.10 of the Mariemont Code of Ordinances to Give a More Complete Description of Dogwood Park” had a first reading.

The meeting adjourned at 9:26 p.m.

Dan Policastro, Mayor

Anthony J. Borgerding, Fiscal Officer

